

### **191.03 IMPOSITION OF TAX.**

(a) Subject to the provisions of Section 191.16, an annual tax for the purposes specified in Section 191.01 shall be imposed on and after January 1, 2004, at the rate of one and three-quarters percent per year upon the following:

- (1) On all compensation and on net profits from the operation of a business earned during the effective period of this Chapter by a resident.
- (2) On all compensation and on net profits from the operation of a business earned during the effective period of this Chapter by a nonresident for work done or services performed or rendered or the conduct of a business, profession or other enterprise or activity in the City, subject to the limitations provided in Ohio Revised Code Section 718.011.
- (3) On a resident owner's distributive share of the net profits of a pass-through entity earned during the effective period of this Chapter from business conducted by the pass-through entity regardless of where such business is conducted, except as modified by Ohio Revised Code Sections 718.01(F)(9) and 718.01(H).
- (4) On a nonresident owner's distributive share of the net profits of a pass-through entity attributable to the City and earned during the effective period of this Chapter from business conducted in the City, whether or not such pass-through entity has an office or place of business in the City.
- (5) On the portion attributable to the City of the net profits earned during the effective period of this Chapter of a corporation derived from business conducted in the City,

whether or not such corporation has an office or place of business in the City. The tax imposed by this Section 191.03(a)(5) on the net profits of an electric company, combined company, or telephone company shall be subject to, and be in accordance with, Ohio Revised Code Chapter 5745.

(6) On all prizes, awards and income derived from gaming, wagering lotteries or schemes of chance by residents, regardless of the source and on all prizes, awards and income derived from gaming, wagering, lotteries or schemes or chance by nonresidents from sources within the City.

(b) The income tax imposed by Section 191.03(a)(4) upon nonresident owners shall be collected and remitted pursuant to Section 191.06(f).

(c) The portion of the net profits attributable to the City of a taxpayer conducting a business both within and without the boundaries of the City shall be determined as provided in Ohio Revised Code Section 718.02 and in accordance with rules and regulations adopted by the Commissioner of Taxation pursuant to this Chapter.

(d) Filing of Consolidated Returns.

(1) Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Commissioner of Taxation. On and after January 1, 2004, the Commissioner of Taxation shall accept for filing a consolidated return from an affiliated group of corporations subject to the tax imposed by this Chapter if the affiliated group filed for the same taxable year a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code of 1986, as amended. Only corporations subject to the tax

imposed by this Chapter may be included in such consolidated return filed for the City. If an affiliated group of corporations subject to the tax imposed by this Chapter properly files a consolidated return in accordance with this Section 191.03(d)(1) for any taxable year beginning on or after January 1, 2004, the affiliated group must file a consolidated return for each succeeding taxable year in which it files a consolidated return for federal income tax purposes unless, on or before the due date (taking into account extensions of time properly granted) of the return for a taxable year, the affiliated group obtains the permission of the Commissioner of Taxation to cease filing a consolidated return for that year.

(2) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the City constituting only a portion of its total business, the Commissioner of Taxation shall require such additional information as the Commissioner of Taxation deems necessary to ascertain whether net profits are properly allocated to the City. If the Commissioner of Taxation finds the net profits are not properly allocated to the City by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or transactions with a division, branch, factory, office, laboratory or activity, or by some other method, the Commissioner of Taxation shall make such adjustments to, and allocation of, net profits to fairly and reasonably reflect the proper allocation of net profits to the City.

(e) Exemptions. The tax provided for herein shall not be levied on the following:

(1) Pay or allowance of active members of the Armed Forces of the United States or the income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities.

(2) Poor relief, unemployment insurance benefits, old age pensions or similar payments, including disability benefits received from local, State or Federal governments or charitable, religious or educational organizations.

(3) Proceeds of insurance paid by reason of the death of the insured, pensions, including industrial pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived.

(4) Receipts from seasonal or casual entertainment, amusements, sports events and health and welfare activities when conducted by a bona fide charitable, religious or educational organizations and associations, recognized as such under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

(5) Alimony received.

(6) Personal earnings of any natural person under eighteen years of age.

(7) Compensation for personal injuries or for damages to property by way of insurance or otherwise.

(8) Interest, dividends and other revenue from intangible property.

(9) Gains from involuntary conversion, cancellation of indebtedness, interest on federal obligations, items of income already taxed by the State from which the City is specifically prohibited from taxing, and income of a decedent's estate during the period of administration, except income from the operation of a business or other activities conducted in the City.

(10) Compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions to impose taxes on income derived from interstate commerce.

(11) Compensation and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio or any other act of the Ohio General Assembly limiting the power of a municipality to impose net income taxes.

(f) Deductions of Employee Business Expenses. The only expenses that can be deducted against salary and wage income are those employee business expenses deductible for federal income tax purposes in determining adjusted gross income, unless otherwise allowed on a uniform and consistent basis by the Commissioner of Taxation. The total of such expenses cannot exceed the employee's related W-2 wage income from the same employer.

Notwithstanding anything to the contrary in subsection (t) hereof, if a taxpayer's taxable income for a taxable year includes income against which the taxpayer has taken a deduction for federal income tax purposes reported on Form 2106 attached to the taxpayer's federal income tax return filed for that taxable year, the taxpayer shall determine taxable income to the City by deducting

the same amount deducted for federal income tax purposes and reported on the taxpayer's Form 2106 for that taxable year and shall attach a copy of Form 2106 filed with the taxpayer's federal income tax return to the taxpayer's City income tax return for that taxable year. (Ord. 04-24. Passed 5-3-04.)